

City of National City
Request for Proposal



Council Chambers Audio/Video System
Upgrade

Date Issued: September 22, 2017

Date Due: October 12, 2017

Section I - Introduction

A. Purpose for RFP: City of National City is seeking proposals to upgrade, replace and add audio, video and control components to the City Council Chambers and overflow areas.

B. Background Information:

The City of National City was incorporated in 1887 as a General Law City and is governed under the Council/Manager form of government. The City Council is comprised of five members who are elected at large, serving staggered four-year terms. Currently, the City has a total population of 60,768.

National City is located in southern San Diego County. National City is bordered by San Diego to the north and east, Chula Vista to the south, the unincorporated areas of Lincoln Acres and Bonita to the south and southeast, and San Diego Bay to the west. The City has approximately 300 full-time employees and an overall annual budget of \$90 million. The City's general work hours are 7:00 a.m. to 6:00 p.m., Monday through Thursday. City offices are closed on Fridays.

C. Scope of Work: The Scope of Work, may be modified through negotiation and/or by written addendum, will be made a part of the Agreement. The Scope of Work must include a schedule of deliverables and milestones outlining the project. A solution that will provide a high level of functionality with ease of use is desired. Consideration will be given to a well-designed and highly functional Audio/Visual System that has excellent vendor support and rich capabilities. Through this RFP, it is specifically intended to achieve the following:

1. AUDIO

- a. Replacement of audio system to include any combination of amplifiers, preamps, breakout boxes, speakers or additional equipment as necessary to operate the system.
- b. Replacement/Addition of gooseneck microphones (19) (on dais and staff tables) with updated microphone technology to ensure quality speech reinforcement for not only the audience but for digital recording as well.
- c. Add sound reinforcement speakers as separate controllable zones in the lobby and large conference room to improve the audience's listening experience.

- d. Replace existing wireless microphones with updated versions. Add additional wireless microphones to provide a total of (2) lapel and (2) handheld microphones.
- e. Installation of podium microphone cut off function at the seat of the Mayor and the City Clerk Terminals.
- f. Provide any combination of additional audio equipment, cabling, and configuration as necessary for the system to function properly.
- g. Recommend any additional improvements to the audio system that are not mentioned in the request for proposals.

2. VIDEO

- a. Replace existing(in chambers(2) and overflow(2)) and add display monitor on North East side of the dais (no less than 75") that can be readily seen by all audience members, including the voting results currently displayed via the Crestron Voting program and audio-visual presentations.
- b. Add/Upgrade Request to Speak & Voting Buttons, at all positions on the dais.
- c. Wireless presentation gateway that allows users to conduct a visual presentation wirelessly from any device, throughout the Council Chamber.
- d. Add/Replace existing mounted cameras with new PTZ cameras with HD capability. Video signal to be routed into an encoding device for online distribution. (Encoder provided by 3rd party - Granicus)
- e. Replace existing DVD/Blu-ray Player.
- f. Remove and replace existing countdown timer viewable from the audience and the dais. (If possible, incorporate so it displays on monitors and is controlled by the Clerk)
- g. Provide real time encoding and playback of the following formats:
 - 1. MPEG I frame(SD/HD)
 - 2. MPEG-2 IBP (SD/HD)
 - 3. DVC Pro
 - 4. DVC Pro 50

5. DVC Pro HD
 6. XD Cam
 7. HDV
 8. XD CAMHD
- h. Provide any combination of additional video equipment, cabling, and configuration necessary for the system to function properly.
 - i. Recommend any additional improvements to the video system that are not mentioned in the Request for Proposals for consideration, for consideration by the City.

3. OTHER SERVICES

- a. Control terminal functionality for ease in handling the presentation, audio and video functions needs to be installed at the City Clerk's desk for switching between audio-visual components during meetings.
- b. Enhance or replace the existing Crestron voting capabilities.
- c. Replace existing plastic name plates on dais with digital name plate displays.
- d. Integration of the AV Technology into a podium/lectern which is flexible enough to support a wide range of presentation; easy for anyone to operate, and functions consistently without technical issues. ***The City reserves the right to identify the preferred system and may purchase this capability separately.***
- e. Install conduit wiring and blanks for future video equipment expansion.

4. Installation

- a. Bidder shall provide all labor, equipment, mounting brackets, wiring, and miscellaneous material required for the installation of a complete and operating system in accordance with applicable local, state, and national codes and the manufacturer's recommendations.
- b. Bidder is responsible for final system connections, a complete functional test of the system, and a written report to the City attesting to satisfactory operation of the system.

5. Training

- a. Bidder shall ensure that the City's staff are fully trained on the operation of the system. The training sessions shall include, but not be limited to general operations, and system administration.

D. Proposal Contact Information: For questions regarding this RFP please contact:

Ron Williams
IT Manager
RWilliams@NationalCityCa.Gov
(619)336-4373
(619)336-4349

E. Proposal Submission Information: All proposals must be in conformance with the submittal instructions provided in Section II of this RFP and received **no later than 12:00p.m. on October 12, 2017.**

Mark Envelope with the following: **National City Council Chambers Audio Video Upgrade**

Please submit **one (1)** original, **three (3)** copies, and **one (1)** electronic copy on a thumb drive or CD-Rom. The electronic copy shall be submitted in PDF format. The proposal containing the original signatures should be clearly marked "Original." All responses must be submitted in the form set forth in this RFP, sealed and delivered to:

City Of National City
City Clerk
1243 National City Blvd
National City, CA 91950

All proposals received after the deadline will be considered non-responsive and shall be returned to the Vendor unopened. No faxed or emailed proposals will be accepted.

Section II – Proposal Format and Evaluation Process

A. To simplify the evaluation process, the Vendor's proposal shall be submitted in the format outlined below:

- 1. Letter of Transmittal** – The proposal letter shall be addressed to the Contact listed and shall include the complete name of the firm or person(s) submitting the

proposal, the main office address, primary contact person's name, title, telephone number, email as well as a signature of representative legally authorized to bind the proposal.

- 2. Table of Contents** – Clearly defined sections and pages numbered.
- 3. Executive Summary** – A summary of the proposal stating the proposer's understanding of the requested system and highlights of the proposed solution.
- 4. Vendor Profile and Qualifications** – Include vendor and executive information, including management team, resumes and qualifications of key staff that would be assigned to the implementation of the solution.
- 5. Experience** – Provide a description of local government experience and experience completing similar projects.
- 6. References** – Provide at least five (5) references of current clients of similar scope with the proposal. Include name, title, address, phone number and email of contact person.
- 7. System Description** – Provide screen shots and an overview of the system's features.
- 8. Technical Requirements** – All hardware requirements, system software, and application requirements must be listed.
- 9. Implementation Services/Scope of Work** – Provide a sample project management plan including reasonable target dates. This section must also outline key activities, work products and assumptions.
- 10. Training** – Provide an overview of proposed training, including options for on-site or training center services, end users, and system administrators. This section should also include an implementation and training plan including an estimated time-frame and deliverables for each stage of the project and training documentation provided.
- 11. Support and Maintenance** – Provide support services including provisions of regular updates and new releases, as well as technical consultation and support.
- 12. Cost Proposal** – Please provide costs for licensing, maintenance, training and any additional services.
- 13. Addenda Acknowledgements** – If revisions become necessary, these addenda will be available on the City's Website (www.nationalcityca.gov). Vendors must acknowledge receipt of all addenda issued.

14. Additional Information – Please provide any other information you feel is important for consideration in our evaluation of proposals.

B. Inquiries/Clarifications/Questions – Questions regarding this RFP must be put in writing and received no later than 12:00 p.m. on October 12, 2017. Please direct all correspondence to **Ron Williams, IT Manager, (619)336-4373, Rwilliams@nationalcityca.gov**. Responses will be communicated in writing to all recipients of this RFP. Inquiries received after the stated date and time will not be accepted and receive no response. **Vendor Conference will be held at City Hall, 1243 National City Blvd, National City, CA 91950, 2nd Floor Large Conference Room at 1:00 p.m. on Oct 2, 2017.**

C. Confidential Material – Any information contained in the proposal that is proprietary must be clearly marked as such and will be treated as confidential to the extent allowable in the Public Records Act.

D. Anticipated Schedule of Events:

Event	Date
Release RFP to Vendors	September 22, 2017
Vendor Conference	October 2, 2017
Proposals Due	October 12, 2017
Vendor Proposal Evaluations	October 17 - 19, 2017
Finalist Notified	October 20, 2017
Contract Review and Negotiation	October 23 - November 06, 2017
Project Commencement	January 17, 2017

E. Proposal Evaluation and Selection Process

Following the submission deadline, a selection committee will short-list the proposing vendors. Responders will be invited to present demonstrations to our staff. After all demonstrations are completed, the selection committee shall reconvene to either make a decision or to request further information.

The selection committee will then make recommendations regarding the selection and request authorization to enter into a contract with the approved vendor. The committee reserves the right to accept/reject any or all proposals. Submission of a proposal indicates acceptance of the conditions contained in the RFP and an agreement to negotiate a contract for services. An award can be made on the basis of greatest benefit and not necessarily the lowest cost option.

F. Support Requirements

The City of National City will enter a maintenance contract with the chosen vendor. Length of contract and exact terms are negotiable but shall include:

1. 4 hour on-site response for all major service impacting alarms/outages
2. Full replacement of all failing hardware and software (replacement equipment must be new or refurbished with warranty)

Section IV – Additional Information

A. Questions/Additional Requirements:

1. **Right to Cancel** – The City of National City reserves the right to change any aspect of, terminate, or delay this RFP, the RFP process and/or the program which is outlined within this RFP at any time, and notice shall be given in a timely manner thereafter.
2. **No Award** – Recipients of this RFP are advised that nothing stated herein, or any part thereof, or any communication during the evaluation and selection process, shall be construed as constituting, offering or awarding a contract, representation or agreement of any kind.
3. **Not Liable for Costs** – The City of National City is not liable and will not be responsible for any costs incurred by any vendor(s) for the preparation and delivery of the RFP responses, nor will we be liable for any costs incurred prior to the execution of an agreement, including but not limited to, presentations by RFP finalists.
4. **Property of the City** – Responses to this RFP will become the property of the City of National City, and will form the basis of negotiations of an agreement with the apparent successful vendor.
5. **Waiver of Irregularities** – The City of National City reserves the right, at its sole discretion, to waive minor administrative irregularities contained in any proposal.
6. **No Obligation to Buy** – The City of National City reserves the right to reject any or all proposals at any time without penalty and from contracting with any vendor. The release of this RFP does not convey the initiation of a purchase.
7. **Withdrawal of Proposals** – Vendors may withdraw a proposal that has been submitted at any time up to the proposal closing date and time. To accomplish this, a written request signed by an authorized representative of the vendor must be submitted to the RFP Contact. The vendor may submit another proposal at any time up to the proposal closing date and time.

8. **Errors in Proposal** – The City of National City will not be liable for any errors in vendor proposals. Vendors will not be allowed to alter proposal documents after the deadline for proposal submission. Corrections or amendments due to errors identified in the vendor's proposal may be accepted if this type of correction or amendment is due to typing, transposition or any other obvious errors. Vendors are liable for all errors or omissions contained in their proposals. After opening and reading proposals, they will be checked for correctness. If, after the opening and tabulation of proposals, a vendor claims error and requests to be relieved of award, s/he will be required to promptly present certified work sheets. The RFP contact will review the work sheets and if the RFP Contact is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, the vendor may be relieved his/her proposal.

Section V – National City Contract

AGREEMENT

BY AND BETWEEN

THE CITY OF NATIONAL CITY

AND

(IF INCORPORATED, PLS INCLUDE “INC.” IN CO. NAME.)

(PLS USE FULL LEGAL COMPANY NAME)

THIS AGREEMENT is entered into on this _____ day of _____, 20____, by and between the CITY OF NATIONAL CITY, a municipal corporation (the “CITY”), and _____ (all caps) _____, a _____ (insert which it is: corporation, partnership, or sole proprietor) (the “CONSULTANT”).

RECITALS

WHEREAS, the CITY desires to employ a CONSULTANT to provide _____ (proved a good description).

WHEREAS, the CITY has determined that the CONSULTANT is a (delete and insert business description) and is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY agrees to engage the CONSULTANT to [do what?], and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** This Agreement will become effective on [INSERT A DATE]. The duration of this Agreement is for the period of _____ through _____. Completion dates or time durations for specific portions of the project are set forth in Exhibit “_____”. This Agreement may be extended by mutual agreement upon the same terms and conditions for an additional one (1) year term. The Parties may exercise up to three one-year extensions. Any extension of this Agreement must be approved in writing by the [insert either City Council or City Manager].

3. **SCOPE OF SERVICES.** [PROVIDE GENERAL DESCRIPTION OF WORK THEY ARE PERFORMING HERE.] **OR** [The CONSULTANT will perform services as set forth in the attached Exhibit “ ”.]

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY. The CONSULTANT shall appear at meetings specified in Exhibit “ ” to keep staff and City Council advised of the progress on the project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

4. **PROJECT COORDINATION AND SUPERVISION.** [redacted] hereby is designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. [redacted] thereby is designated as the Project Director for the CONSULTANT.

5. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit “ ” shall not exceed \$[redacted]. The compensation for the CONSULTANT’S work shall not exceed [redacted] per hour.] **OR** [the rates set forth in Exhibit “ ”.] Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit “ ”, as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY, and for furnishing of copies to the CITY, if requested.

6. **ACCEPTABILITY OF WORK.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report which supports their position and file the same with the other

party. The CITY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications, and other documents prepared by the CONSULTANT for this project, whether paper or electronic, shall become the property of the CITY for use with respect to this project, and shall be turned over to the CITY upon completion of the project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this Agreement, except upon the CITY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written work product for the CITY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of Services of this project, unless otherwise mutually agreed.

8. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY, and are not entitled to any of the rights, benefits, or privileges of the CITY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement nor any interest herein may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the CITY nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees, except as herein set forth, and the CONSULTANT or the CONSULTANT'S agents, servants, or employees are not in any manner agents, servants, or employees of the CITY, it being understood that the CONSULTANT

its agents, servants, and employees are as to the CITY wholly independent CONSULTANT, and that the CONSULTANT'S obligations to the CITY are solely such as are prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S), shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-section will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The

CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 15.

[USE THE FOLLOWING SECTION 15 FOR DESIGN PROFESSIONALS, I.E., ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEER, PROFESSIONAL LAND SURVEYOR]

15. **INDEMNIFICATION AND HOLD HARMLESS.** The CONSULTANT agrees to defend, indemnify, and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S negligent performance of this Agreement. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

[USE THE FOLLOWING SECTION 15 FOR ALL OTHER TYPES OF CONSULTANTS AND CONTRACTORS]

15. **INDEMNIFICATION AND HOLD HARMLESS.** The CONSULTANT agrees to defend, indemnify and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S performance or other obligations under this Agreement; provided, however, that this indemnification and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the CITY, its agents, officers, employees or volunteers. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense, and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

16. **WORKERS' COMPENSATION.** The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, employees, and volunteers from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

17. **INSURANCE.** The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

A. ☐ If checked, **Professional Liability Insurance** (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles ("any auto"). The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, or \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$2,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its

officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this “project” or “location”. The “project” or “location” should be noted with specificity on an endorsement that shall be incorporated into the policy.

D. **Workers’ Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT’S employees and employers’ liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers’ Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY’S Risk Manager, at the address listed in subsection G below, of cancellation or material change.

F. If required insurance coverage is provided on a “claims made” rather than “occurrence” form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the “retro” date must be on or before the date of this Agreement.

G. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City

c/o Risk Manager

1243 National City Boulevard

National City, CA 91950-4397

H. Insurance shall be written with only insurers authorized to conduct business in California that hold a current policy holder’s alphabetic and financial size category rating of not less than A:VII according to the current Best’s Key Rating Guide, or a company of equal financial stability that is approved by the CITY’S Risk Manager. In the event coverage is provided by non-admitted “surplus lines” carriers, they must be included on the most recent California List of Eligible Surplus Lines Insurers (LESLI list) and otherwise meet rating requirements.

I. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY’S Risk Manager. If the CONSULTANT does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

J. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY.

K. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY requires and shall be entitled to the broader coverage or higher limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

18. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

19. **TERMINATION.**

A. This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 60-day's written notice to the CONSULTANT. During said 60-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement, misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 7.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the

CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

20. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY:

(Insert name)

(Insert title)

(Insert department)

City of National City

1243 National City Boulevard

National City, CA 91950-4397

To CONSULTANT:

(Insert name)

(Insert title)

(Company name)

(Address)

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

21. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.**

During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

☐ If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Section 21 by the CONSULTANT.

22. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Consultant is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

23. **MISCELLANEOUS PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

H. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

I. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

J. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

K. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

L. *Subcontractors or Subconsultants.* The CITY is engaging the services of the CONSULTANT identified in this Agreement. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Agreement is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in Section 17 and the indemnification and hold harmless provision of Section 15 of this Agreement.

M. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY

INSERT CO'S NAME IN BOLD, ALL CAPS

(Corporation – signatures of two corporate officers required)

(Partnership or Sole proprietorship – one signature)

By: _____

Ron Morrison, Mayor

By: _____

(Name)

(Print)

APPROVED AS TO FORM:

Angil P. Morris-Jones

City Attorney

(Title)

By: _____

Nicole Pedone

Senior Assistant City Attorney

By: _____

(Name)

(Print)

-- OR --

(Title)

By: _____

Roberto M. Contreras

Deputy City Attorney

ATTACHMENT #1

VENDOR INFORMATION

1. BIDDING/PROPOSING COMPANY NAME _____
FEIN: _____ FAX: _____
Phone: _____ Toll Free Phone: _____
Address: _____
City: _____ State: _____ Zip + 4: _____
2. Name of person we may contact in the event there is questions about your bid/proposal.
Name: _____ Title: _____
Phone: _____ Toll Free Phone: _____
Address: _____
City: _____ State: _____ Zip + 4: _____ FAX: _____
3. Mailing address where purchase orders are to be mailed.
Name: _____ Title: _____
Phone: _____ Toll Free Phone: _____
Address: _____
City: _____ State: _____ Zip + 4: _____ FAX: _____

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ATTACHMENT #2

VENDOR REFERENCES

Company 1 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

Company 2 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

Company 3 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

Company 4 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

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ATTACHMENT #3

CREDIT LINE REFERENCE

Bank 1 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

Bank 2 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

Bank 3 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

Bank 4 Name: _____

Address (include Zip +4): _____

Contact Person: _____ Phone No.: _____

Products and/or Services used: _____

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ATTACHMENT #4

BIDDER INFORMATION

Contractor _____

Phone # _____ Fax # _____

Email: _____

Ordering/Expediting _____

Phone # _____ Fax # _____

Email: _____

Invoice Information _____

Phone # _____ Fax # _____

Email: _____

Contract Renewal/Cancellation _____

Phone # _____ Fax # _____

Email: _____

Contract Problems _____

Phone # _____ Fax # _____

Email: _____

Returns _____

Phone # _____ Fax # _____

Email: _____

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